
PRELIMINARY DRAFT

No. 3414

PREPARED BY

LEGISLATIVE SERVICES AGENCY

2008 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 33-23-5-13; IC 33-37; IC 33-38.

Synopsis: Judges' pensions. Allows a person serving as a full-time magistrate on July 1, 2010, and requires a person who begins serving as a full-time magistrate after that date, to become a participant in the judges' 1985 benefit system (1985 system). Allows under certain conditions a judge who is a participant in the 1985 system to transfer to the 1985 system service credit earned as a full-time referee, commissioner, or magistrate after leaving a position covered by the 1985 system. Allows under certain conditions a magistrate who is a participant in the 1985 system to purchase, at full actuarial cost, service credit for service earned in the public employees' retirement fund as a full-time magistrate, referee, or commissioner. For a participant in the 1985 system who applies for a retirement benefit after December 31, 2009, bases the computation of the annual retirement benefit on the salary being paid for the office that the participant held at the time of the participant's separation from service. (Currently the computation is based on the salary being paid to the participant at the time of the participant's separation from service.) Provides that benefit increases paid after December 31, 2009, to a participant in the 1985 system who applies for a retirement benefit before January 1, 2010, are equal to the

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Effective: July 1, 2008.



Digest Continued

percentage by which the salary being paid for the office that the participant held at the time of the participant's separation from service increases. Increases the court administration fee from \$3 to \$5, and directs that the additional amount be paid into the judges' retirement fund.



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 33-23-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. **(a) Except as provided in subsection (b),** a magistrate may:

(1) participate in the public employees' retirement fund as provided in IC 5-10.3; or

(2) elect to remain in the judges' retirement system under IC 33-38 if the magistrate had previously participated in the system.

(b) A person who:

(1) is serving as a full-time magistrate on July 1, 2010, and makes an election under IC 33-38-8-10.5; or

(2) begins serving as a full-time magistrate after July 1, 2010; shall, beginning January 1, 2011, participate in the judges' 1985 benefit system under IC 33-38-8.

SECTION 2. IC 33-37-5-27, AS AMENDED BY P.L.80-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. (a) This subsection does not apply to the following:

(1) A criminal proceeding.

(2) A proceeding to enforce a statute defining an infraction.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in IC 33-34, the clerk shall collect a court administration fee of ~~three~~ **five** dollars ~~(\$3)~~ **(\$5)**.

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have committed an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a court administration fee of ~~three~~ **five** dollars ~~(\$3)~~ **(\$5)**.



SECTION 3. IC 33-37-7-9, AS AMENDED BY P.L.174-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~eight~~ **nine** million two hundred seventy-seven thousand twenty-three dollars ~~(\$8,277,023)~~ **(\$9,277,023)** for distribution under subsection (b).

(b) On June 30 and on December 31 of each year, the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eight and ~~ninety-nine~~ **three**-hundredths percent ~~(8.99%)~~; **(8.03%)**;

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~thirty-one~~ **thirty-eight** and ~~eighteen~~ **fifty-five** hundredths percent ~~(31.18%)~~; **(38.55%)**;

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to two and ~~eighty-six~~ **fifty-six** hundredths percent ~~(2.86%)~~; **(2.56%)**;

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~eleven~~ **ten** and ~~fifty-one~~ **twenty-seven** hundredths percent ~~(11.51%)~~; **(10.27%)**;

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~thirteen~~ **eleven** and ~~thirty-seven~~ **ninety-three** hundredths percent ~~(13.37%)~~; **(11.93%)**;

(6) the motor vehicle highway account an amount equal to ~~twenty-one~~ **nineteen** and ~~eighty-four~~ **forty-nine** hundredths percent ~~(21.84%)~~; **(19.49%)**;

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~twenty-seven~~ **twenty-five** hundredths percent ~~(27%)~~; **(0.25%)**;

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to one and ~~eighty-two~~ **sixty-three** hundredths percent ~~(1.82%)~~; **(1.63%)**; and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to ~~eight seven~~ and ~~sixteen~~ **twenty-nine** hundredths percent ~~(8.16%)~~; **(7.29%)**;

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

(1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and



(2) after June 30, 2005, two million seven hundred thousand dollars (\$2,700,000).

SECTION 4. IC 33-38-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "participant" means a judge who participates in the fund. **After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.**

SECTION 5. IC 33-38-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge ~~whether the date is before, on, or after March 11, 1953; or, after December 31, 2010, a judge or full-time magistrate,~~ and ending on the date under consideration and includes all intervening employment as a judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 6. IC 33-38-6-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) A judge **or, after December 31, 2010, a judge or full-time magistrate,** is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge **or, after December 31, 2010, a judge or full-time magistrate,** is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term, then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

- (1) at any time when the judge is not serving as judge; or
- (2) during any period of service as a senior judge under IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:

- (1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and**
- (2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.**

SECTION 7. IC 33-38-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) This section applies only to a person who:

- (1) is a judge participating under this chapter;
- (2) before becoming a judge was a member of an Indiana public employees' retirement fund;



(3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 18 of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under an Indiana public employees' retirement fund; and

(2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or



political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 8. IC 33-38-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies only to an individual who:

(1) begins service as a judge after August 31, 1985;

(2) is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter; or

(3) begins service as a full-time magistrate after July 1, 2010.

SECTION 9. IC 33-38-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. As used in this chapter, "participant" means a judge who participates in the fund. **After December 31, 2010, "participant" means a judge or full-time magistrate who participates in the fund.**

SECTION 10. IC 33-38-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "services" means the period beginning on the first day a person first becomes a judge ~~whether the date is before, on, or after March 11, 1953;~~ **or, after December 31, 2010, a judge or full-time magistrate,** and ending on the date under consideration and includes all intervening employment as a judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 11. IC 33-38-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A person who:

(1) begins service as a judge after August 31, 1985; and

(2) is not a participant in the fund;

shall become a participant in the fund.

(b) A person who is serving as a full-time magistrate on July 1, 2010, and makes an election under section 10.5 of this chapter is, beginning January 1, 2011, a participant in the judges' 1985 benefit system under this chapter.

(c) A person who begins serving as a full-time magistrate after July 1, 2010, is a participant in the judges' 1985 benefit system under this chapter beginning on the later of the following:

(1) January 1, 2011.



(2) The date the person begins service as a full-time magistrate.

SECTION 12. IC 33-38-8-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10.5. A person who is serving as a full-time magistrate on July 1, 2010, may elect to become a member of the judges' 1985 benefit system under this chapter. An election under this section:**

(1) must be made in writing;

(2) must be filed with the board, on a form prescribed by the board, before October 1, 2010; and

(3) is irrevocable.

SECTION 13. IC 33-38-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge **or, after December 31, 2010, a judge or full-time magistrate.** However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. However, a contribution is not required:

(1) because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or

(2) during any period that the participant is not serving as judge **or, after December 31, 2010, a judge or full-time magistrate.**

SECTION 14. IC 33-38-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) A participant who:

(1) ceases service:

(A) as a judge; **or**

(B) **after December 31, 2010, as a judge or full-time magistrate;**

other than by death or disability; and

(2) is not eligible for a retirement benefit under this chapter;

is entitled to withdraw from the fund, beginning on the date specified by the participant in a written application. The date on which the withdrawal begins may not be before the date of final termination of employment or the date thirty (30) days before the receipt of the application by the board.

(b) Upon the withdrawal, the participant is entitled to receive the total sum contributed, payable within sixty (60) days from **the** date of **the** withdrawal application or in monthly installments as the participant may elect.



SECTION 15. IC 33-38-8-13, AS AMENDED BY P.L.28-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. A participant whose employment as a judge or, after December 31, 2010, as a judge or full-time magistrate, is terminated is entitled to a retirement benefit computed under section 14 of this chapter, beginning on the date specified by the participant in a written application, if the following conditions are met:

- (1) The date on which the benefit begins is not:
 - (A) before the date of final termination of employment of the participant; or
 - (B) the date thirty (30) days before the receipt of the application by the board.
- (2) The participant:
 - (A) is at least sixty-two (62) years of age and has at least eight (8) years of service credit;
 - (B) is at least fifty-five (55) years of age and the participant's age in years plus the participant's years of service is at least eighty-five (85); or
 - (C) has become permanently disabled.
- (3) The participant is not receiving a salary from the state for services currently performed as:
 - (A) a judge (as defined in IC 33-38-6-7); or
 - (B) a magistrate under IC 33-23-5.

SECTION 16. IC 33-38-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) A participant who:

- (1) applies for a retirement benefit; and
- (2) is at least:
 - (A) sixty-five (65) years of age; or
 - (B) fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter;

is entitled to an annual retirement benefit as calculated in subsection (c).

(c) The annual retirement benefit for a participant who meets the requirements of subsection (b) equals the product of:

- (1) the salary:
 - (A) for a participant who applies for a retirement benefit before January 1, 2010, that was being paid to the participant at the time of the participant's separation from service; or
 - (B) for a participant who applies for a retirement benefit after December 31, 2009, being paid for the office that the participant held at the time of the participant's separation from service; multiplied by
- (2) the percentage prescribed in the following table:



	Participant's Years of Service	Percentage
1		
2		
3	8	24%
4	9	27%
5	10	30%
6	11	33%
7	12	50%
8	13	51%
9	14	52%
10	15	53%
11	16	54%
12	17	55%
13	18	56%
14	19	57%
15	20	58%
16	21	59%
17	22 or more	60%

If a participant has a partial year of service in addition to at least eight (8) full years of service, an additional percentage shall be calculated by prorating between the applicable percentages, based on the number of months in the partial year of service.

(d) Except as provided in section 13(2)(B) of this chapter and subsection (b)(2)(B), if a participant who applies for a retirement benefit has not attained sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by one-tenth percent (0.1%) for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday. This reduction does not apply to:

- (1) participants who are separated from service because of permanent disability;
- (2) survivors of participants who die while in service after August 1, 1992; or
- (3) survivors of participants who die while not in service but while entitled to a future benefit.

SECTION 17. IC 33-38-8-17, AS AMENDED BY P.L.99-2007, SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Benefits provided under this section are subject to IC 33-38-6-13 and section 20 of this chapter.

(b) The surviving spouse or child or children, as designated by the participant, of a participant who:

- (1) dies; and
- (2) on the date of death:
 - (A) was receiving benefits under this chapter;
 - (B) had completed at least eight (8) years of service and was in service as a judge **or, after December 31, 2010, a judge or**



full-time magistrate;

(C) had a permanent disability; or

(D) had completed at least eight (8) years of service, was not still in service as a judge **or, after December 31, 2010, a judge or full-time magistrate**, and was entitled to a future benefit;

are entitled, regardless of the participant's ages, to the benefit prescribed by subsection (c).

(c) The surviving spouse or child or children, as designated under subsection (b), are entitled to a benefit equal to the greater of:

(1) fifty percent (50%) of the amount of the retirement benefit the participant was drawing at the time of death, or to which the participant would have been entitled had the participant retired and begun receiving retirement benefits on the date of death, with reductions as necessary under section 14(d) of this chapter; or

(2) the amount determined under the following table:

Year	Amount
July 1, 1995, to June 30, 1996	\$10,000
July 1, 1996, to June 30, 1997	\$11,000
July 1, 1997, and thereafter	\$12,000

(d) The benefit payable to a surviving spouse or surviving child or children under subsection (c) is subject to the following:

(1) A surviving spouse is entitled to receive the benefit for life.

(2) The total monthly benefit payable to a surviving child or children is equal to the same monthly benefit that was to have been payable to the surviving spouse.

(3) If there is more than one (1) child designated by the participant, then the children are entitled to share the benefit in equal monthly amounts.

(4) A child entitled to a benefit shall receive that child's share until the child becomes eighteen (18) years of age or during the entire period of the child's physical or mental disability, whichever period is longer.

(5) Upon the cessation of benefits to one (1) designated child, if there are one (1) or more other children then surviving and still entitled to benefits, the remaining children shall share equally the benefit. If the surviving spouse of the participant is surviving upon the cessation of benefits to all designated children, the surviving spouse shall then receive the benefit for the remainder of the spouse's life.

(6) The benefit shall be payable to the participant's surviving spouse if any of the following occur:

(A) No child or children named as a beneficiary by a



participant survives the participant.

(B) No child or children designated by the participant is or are entitled to a benefit due to the age of the child or children at the time of death of the participant.

(C) A designation is not made.

(7) A benefit payable to a surviving child or children may be paid to a trust or a custodian account under IC 30-2-8.5, established for the surviving child or children as designated by the participant.

SECTION 18. IC 33-38-8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. (a) A judge **or, after December 31, 2010, a judge or full-time magistrate**, is entitled to a month of service credit for services performed in any fraction of a calendar month. However, a judge **or, after December 31, 2010, a judge or full-time magistrate**, is not entitled to more than one (1) month of credit for services performed in a calendar month.

(b) Except as otherwise provided in this chapter, if a judge is elected or appointed and serves one (1) or more terms or part of a term then retires from office but at a later period or periods is appointed or elected and serves as judge, the judge shall pay into the fund during all the periods served as judge, whether the periods are served consecutively or not.

(c) Except as otherwise provided in this chapter, a judge is not required to pay into the fund:

- (1) at any time when the judge is not serving as judge; or
- (2) during any period of service as a senior judge under IC 33-23-3.

(d) Except as otherwise provided in this chapter, after December 31, 2010, a full-time magistrate:

- (1) shall pay into the fund during all periods served as a full-time magistrate, whether the periods are served consecutively or not; and**
- (2) is not required to pay into the fund at any time when the magistrate is not serving as a full-time magistrate.**

SECTION 19. IC 33-38-8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. (a) This section applies to a person who:

- (1) is a judge participating under this chapter;
- (2) ~~before becoming a judge~~ was appointed by a court to serve as a full-time referee, full-time commissioner, or, **before January 1, 2011, full-time magistrate, either:**
 - (A) before becoming a judge; or**
 - (B) after leaving an elected term on the bench;**
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).



(b) If a person becomes a participant **as a judge** in the judges' 1985 benefit system under section 1 of this chapter, credit for **prior** service by the judge as a full-time referee, full-time commissioner, or, **before January 1, 2011**, full-time magistrate shall be granted under this chapter by the board if:

(1) the **prior** service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the **prior** service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system during the **prior** service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service **after the date of participation earned as a participant** in the **judges'** 1985 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section ~~13(2)(b)~~ **13(2)(B)** of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section ~~13(2)(b)~~ **13(2)(B)**



of this chapter that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for ~~prior~~ service in the public employees' retirement fund as a full-time referee, full-time commissioner, or, **before January 1, 2011**, full-time magistrate is waived. Any credit for the ~~prior~~ service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 20. IC 33-38-8-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22.5. (a) This section applies after December 31, 2010, only to a person who:

(1) is a full-time magistrate participating under this chapter;

(2) was appointed by a court to serve as:

(A) a full-time referee or full-time commissioner; or

(B) before January 1, 2011, a full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees'



retirement fund for the employment described in subdivision
(2).

(b) If a person becomes a participant as a full-time magistrate in the judges' 1985 benefit system under section 1 of this chapter, credit for service by the magistrate as a full-time referee, full-time commissioner, or, before January 1, 2011, full-time magistrate shall be granted under this chapter by the board if:

(1) the service was credited under the public employees' retirement fund; and

(2) the magistrate pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the judges' 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service earned as a participant in the judges' 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 13(2)(B) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 13(2)(B) of this chapter that is attributable to the transferring participant.

(3) The amount the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by



the board under subdivision (2).

(4) If the requirements of subsection (b) are satisfied, credit for service in the public employees' retirement fund as a full-time referee, full-time commissioner, or before July 1, 2010, full-time magistrate is waived. Any credit for the service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 21. IC 33-38-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. (a) This section applies only to a person who:

(1) is:

(A) a judge; or

(B) after December 31, 2010, a judge or full-time magistrate;

participating under this chapter;

(2) before becoming:

(A) a judge; or

(B) after December 31, 2010, a judge or full-time magistrate;

was a member of a public employees' retirement fund;

(3) received credited service under a public employees' retirement



fund for the employment described in subdivision (2), and the credited service is not eligible for **prior** service credit under section 22 **or 22.5** of this chapter;

(4) has not attained vested status under a public employees' retirement fund for the employment described in subdivision (2); and

(5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

(1) the prior service was credited under a public employees' retirement fund; and

(2) the judge **or full-time magistrate** pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the **judges'** 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the **judges'** 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's **or full-time magistrate's** annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the appropriate board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in a public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or



political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 22. IC 33-38-8-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 25. (a) This section applies:**

(1) only to a participant who applies for a retirement benefit before January 1, 2010; and

(2) only in state fiscal years beginning after June 30, 2010.

(b) If a salary increase is provided in a particular state fiscal year under IC 33-38-5-8.1, the monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which salaries are increased under IC 33-38-5-8.1(b) in that state fiscal year. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The percentage increase to the monthly benefit takes effect at the same time that the salary increase under IC 33-38-5-8.1 takes effect.

(c) This subsection applies only if:

(1) a salary increase is not provided in a particular state fiscal year under IC 33-38-5-8.1; and

(2) the salary of a judge is increased under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the General Assembly in the state fiscal year.

The monthly benefit payable under this chapter to a participant described in subsection (a) shall be increased by the same percentage by which the salary being paid for the office that the participant held at the time of the participant's separation from service is increased under IC 33-38-5-6, IC 33-38-5-8, or any other provision enacted by the General Assembly. The percentage increase shall be applied to the monthly benefit (including any previous increases to the monthly benefit received under this section or under any other provision) received by the participant as of June 30 of the immediately preceding state fiscal year. The



1 percentage increase to the monthly benefit takes effect at the same
2 time that the salary increase under IC 33-38-5-6, IC 33-38-5-8, or
3 any other provision enacted by the General Assembly takes effect.

4 (d) An increase payable under this section may not include any
5 amount based on the percentage by which any salary provided by
6 a county or counties under IC 36-2-5-14 or IC 36-3-6-3(c) is
7 increased.

